IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

TUESDAY, THE 30TH OCTOBER 2007 / 8TH KARTHIKA 1929

WP(C).No. 32133 of 2007(A)

PETITIONER:

M/S. CADBURY INDIA LIMITED,
THRIKKAKARA, PIPE LINE JUNCTION, ERNAKULAM,
KOCHI-682 021.

BY ADV. SRI.JOSEPH JERARD SAMSOM RODRIGUES

RESPONDENTS:
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1. ASSISTANT COMMISSIONER (AA) II,
O/O. THE DEPUTY COMMISSIONER (AA),
COMMERCIAL TAXES, ERNAKULAM.

2. DEPUTY COMMISSIONER (APPEALS)-II,
DEPT. OF COMMERCIAL TAXES, ERNAKULAM.

BY GOVERNMENT PLEADER SRI.K.P.PRADEEP

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 30/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ANTONY DOMINIC, J.
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W.P.(C) NO. 32133 OF 2007 A
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Dated this the 30th day of October, 2007

J U D G M E N T

Ext.P4 order passed by the Appellate Authority, granting stay on condition that the petitioner remits 50% of the tax demanded, is under challenge. Although the petitioner has not chosen to produce the memorandum of appeals in which the stay petitions were filed, referring to the averments in the stay petition, it is contended that the Assessing Authority has taken the third party charges as turn over and tax has been levied on that basis. Other contentions are also raised on the merits of the assessment order. I am not inclined to consider any of these contentions, as in my view, these are matters for the Appellate Authority to consider. While considering the stay petition, the question of prima facie case has been considered by the Appellate

Authority. Petitioner has no case of financial constraints. If that be so, I do not find any perversity in the order passed by the Appellate Authority. Writ petition fails and is dismissed.

ANTONY DOMINIC, JUDGE.

Rp